THE
NATION

OCTOBER 10, 1959 . . 25c

NEW HOPE FOR DISARMAMENT

Rethinking the Security Problem

by J. David Singer

HIDDEN CENSORS

The Post Office Polices the Mails

by Stanley Meisler

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LETTERS

'Fear of the People'

Dear Sirs: The article by Peter Bachrach, "Fear of the People," in your September 19 issue was the best thing I have read for a long time. You redeem yourself from "modern Republicanism" by printing it.

VIRGINIA DURR

Montgomery, Ala.

Dear Sirs: Peter Bachrach's article, "Fear of the People," hit the bull's eye. I served as a shop steward in a United Steel Workers local for two years after graduating from theological school (my field was social ethics), and his observations about our middle-class workers are so true it hurts.

Too few "intellectuals" have really exposed themselves to the conditions in which our middle-class workers live and work. It is amazing that they would expect that people without the benefit of college would be seized by universal abstract ideals. Of course they express themselves in terms of middle-class values. What else could be expected when they were educated with middle-class textbooks and middle-class teachers and live in a culture whose ethos is middle class?

Despite this, I have found that these middle-class workers usually have a profounder understanding of the American power structure than most "professors."

WALLACE B. POTEAT

Flint, Mich.

Dear Sirs: Mr. Bachrach's quest for the goodness of all that is "liberal" leads him to conclude that the customarily unrevered "common man" may well be the most dependable factor if "the battle for freedom" is to be waged to a successful conclusion. Concomitantly, he warns against the tendency of his colleagues "to rely on the educated classes or . . . professional class to preserve freedom. . . ."

Unfortunately, these basic contentions are marred by inconsistencies. . . . He depicts the Vinson Court as one of the "elite" institutions which failed to protect individual rights in time of crisis. . . . What is overlooked in this particular assertion is the fact that the illustrative *Dennis* case was a well-received and popular decision with the "masses." Mr. Justice Black's dissenting opinion recognized this: "Public opinion being what it now is, few will protest the conviction of these Communist petitioners."

RICHARD H. SIEGEL

Cleveland Heights, O.

Lively Small Press

Dear Sirs: It was good to see the attention paid the small presses in Lloyd Zimpel's article, "They Also Serve Who Only Lie In Wait," in the Sept. 26 issue.

I should, I think, indicate however that the Jargon Press, after many months in a cataleptic, uncapitalized trance, now is about to stir with a barrage of titles, which include: *New Maximus Poems*, by Charles Olson; *1450-1950*, by the late Bob Brown; *A Form of Women*, by Robert Creeley; collected poems, *A Red Carpet For the Sun*, by Irving Layton; *100 Poems From the Greek & Latin*, translated by Kenneth Rexroth; *The Roman Sonnets of G. G. Belli*, translated by Harold Norse; *Some Deaths*, by Walter Lowenfels; and *The Empire Finals at Verona* and three earlier books of poems by Jargon's editor.

JONATHAN WILLIAMS
Publisher, Jargon Press

Highlands, N.C.

Marxist vs. Marxists

Dear Sirs: In your issue of March 28, devoted to "The Economic Hazards of Arms Reduction," the leading articles were written by Paul A. Baran and Paul M. Sweezy, both outstanding orthodox Marxist economists. Their pessimistic conclusions as to the prospects of arms reduction in the near future were best summed up by Mr. Sweezy in these words:

> On the basis of experience to date, the probable alternatives to a sharp reduction in the need for arms spending would appear to be prosperity with continuing war orders or depression without them. Those of us who believe that arms spending is already inflated out of all proportion to need will feel that this theory has already been tested and found valid: for others the test will begin to come if and when they in turn are convinced that the need for arms spending has fallen significantly below the defense budget.

On Friday, September 18, another Marxist, Mr. Khrushchev, addressed the U.N. on the issue of disarmament. He said:

> The utilization of the money, the resources released as the result of disarmament would create the broadest possible opportunities for the employment of the population. Consequently, assertion to the effect that disarmament would lead to a crisis or economic depression in the industrially highly developed countries of the capitalistic world [is] erroneous.

Unorthodox Marxists like myself will welcome Mr. Khrushchev's conversion to this long-held view.

ELIAS M. SCHWARZBART

New York City

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THE NATION

EDITORIALS

The New Imperatives

Autre temps, autre moeurs. It is true even in diplomacy, undoubtedly the most stagnant and backward of the social technologies. Not only other manners — *vide* the bizarre mixture of conviviality and contention during Khrushchev's visit to the United States — but also other methods are an inevitable consequence of the revolutionary changes in weapons which sprang from World War II and which so far have prevented, but not removed the threat, of World War III. As J. David Singer points out in this issue (page 203), before the fission and fusion bombs it could be plausibly argued that political settlement must precede disarmament. But that was in the heyday of TNT — only fifteen years ago as the planets revolve but eons ago in practical human terms. By their potentiality for total destruction, the weapons must take priority in any attempted solution; the disease cannot be controlled until the symptoms are relieved. Adlai Stevenson's mind seems to be tending in the same direction. Immediately after Khrushchev's visit he wrote: ". . . We have always thought that arms were an effect, not a cause, of tension, and that arms reduction could only follow political settlements. Is it possible that this may no longer be true in the nuclear age when men are afraid of the weapons themselves, even if they have them?"

Such thoughts, sinking into the minds of the common people and the leaders alike, are beginning to exert political pressures which are already formidable and promise to become irresistible. President Eisenhower recognized these pressures in inviting Khrushchev to the United States and in his remark about governments getting out of the way of the people's desire for peace. The Soviets have played on this longing with heavy-handed but effective emphasis. "I can see now," Walter Lippmann wrote on September 29, "that I had failed to realize how mighty are the compulsions which are working on both the President and on Mr. K."

It would be underestimating the pressures if one assumed that they come only from the common people. They come equally from level-headed and public-spirited industrial capitalists like Cyrus Eaton and agricultural capitalists like Roswell Garst. Khrushchev, even if he were a Stalin in personality and techniques, would be under equivalent pressures from colleagues, who are the Communist equivalents of our Garsts and Eatons. That is one reason for taking his proposals for "general and complete disarmament" more seriously than Maxim Litvinov's pleas before the League of Nations were taken in 1927 and 1932. For years general disarmament was a concept so visionary that it could safely be left to the wranglings of diplomats. Now it is in stronger hands, and the time for it seems ripe.

It Does Move

Up to a few weeks ago, there was only an inchoate popular longing for peace which drew sustenance from unofficial efforts like those of the Pugwash conferences sponsored and financed by Cyrus Eaton, and political miscarriages like the one which preceded Harold Stassen's departure from the Administration. In the United Nations there was general frustration, for which the Soviet Union and the United States can share the honors about equally. Yet, in the meantime, here in the United States there have been changes which, cumulatively, can now be seen as preparations in the sense of removal of obstacles to a consideration of disarmament.

It may be said — and not in derision — that the President gave John Foster Dulles a bang-up funeral and then proceeded to do all the things the Secretary had forbidden. His first great departure was the invitation to Khrushchev. Then, singly and collectively, he forgot the famed Dulles slogans except "liberate the satellites," which remains as a purely verbal memento with domestic political connotations. Next, the President made statements, off the cuff, at variance with the earlier Dulles line. An example is his recent reference to the Berlin situation as "abnormal," which had implications that were not lost on Bonn. Of course it is abnormal to have a city committed to the West 120 miles inside the Soviet satellite border, but this had been the situation for over a decade. "Abnormal" must therefore have been used in the sense of something to be changed or adjusted. At the same press conference, he said that a German settlement would have to protect "the legitimate interests of the Soviets, the East Germans, the West Germans and, above all, the Western people."

These are small items in themselves, but they have

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been interpreted as indications of a new flexibility in American diplomacy. And if it is not an entirely new State Department under Mr. Herter, it certainly is not the old one either. Mrs. Eleanor Lansing Dulles, the late Secretary's sister and one of his principal advisers on Germany, has been transferred from the Office of German Affairs to the department's Bureau of Intelligence and Research. Even more striking is the recall of Ambassador Charles E. Bohlen from his exile in the Philippines. The way is now open, as far as the Administration is concerned, for a fresh look at disarmament.

The Vacuums

War is one of the primary preoccupations of the human race; and its discontinuance, as Senator Humphrey has pointed out, cannot be treated in a vacuum. Actually, what we are confronted with is a whole congeries of vacuums, some already in existence. In the immediate foreground there is the diplomatic vacuum of Red China, a blank spot on the map as far as the West is concerned. This nation of the vacuum happens to have one of the largest armies in the world. There cannot be world disarmament without Chinese disarmament, and Chinese disarmament is inconceivable unless and until China is admitted to the United Nations.

Then there is the power vacuum. World disarmament leads directly to world government, at least to the extent of a police force under United Nations control. In theory the answer is simple: a part of the men and munitions released by national disarmament would be allocated to the international police force. The proposal of Frank Aiken, Minister for External Affairs of Ireland, for an area-by-area progression of United Nations policing, is worth noting in this connection.

In the United States, however, the gravest vacuum is probably the economic one to which Senator Humphrey had particular reference. Federal spending amounts to only about 15 per cent of gross national product, but that 15 per cent is the balance wheel of the economy. Armament-spending constitutes two-thirds of the balance wheel. On his trip to the United States, Premier Khrushchev announced himself as a convert to the theory that our prosperity is in no wise dependent on armament production. His principal mentors were Frank Pace, head of General Dynamics Corporation, which doesn't manufacture a single machine screw for anyone but the government, and William C. Foster of Olin Mathieson. This is the same William C. Foster who has represented the United States in top-level negotiations with the Soviet Union, and who only a few months ago proposed an increase of U.S. armament expenditures to double the present level.

Mr. Khrushchev is probably less credulous than he pretends to be. Nevertheless, as the San Francisco *Chronicle* says, "if he intends to put Western capitalism to the test of going along without arms expenditures, Western capitalism must be ready to face it." Truer words were never spoken, but the *Chronicle* expresses doubts which, in Averell Harriman's parlor, Messrs. Pace and Foster so airily dismissed. "We can't help wondering if any official of the United States Government has sat down to plan for this extraordinary event," it writes. "Disarmament *à la* Khrushchev would directly disemploy three million men in the armed forces and no one can say how many indirectly; it would cause cutbacks in orders to every big industry, and would leave countless institutions and establishments now bustling with self-importance, without an excuse for existing." This vacuum can be filled — but it will take a bit of planning, and it is not too early to begin.

Censorship Without Warrant

The adjournment of Congress has put a temporary damper on the artfully stimulated demand for new legislation to underpin Postmaster General Summerfield's "war against muck." But the legislation in question — H.R. 7379 (see article on page 207) — passed the House by voice vote, with only Rep. John V. Lindsay of New York voting against it, and will unquestionably be pushed with great vigor once Congress reassembles. In the Senate it should be subjected to critical scrutiny of a type it did not receive in the House. A causal connection may exist between the availability of "obscene" or "pornographic" printed material and deviant juvenile behavior, but it has not yet been established by competent evidence. Until such a connection has been established by evidence more conclusive than any currently available, Congress should table H.R. 7379.

On its face, the measure is objectionable. For example, it would allow the Postmaster General to issue an impounding order if he determines such action is "in the public interest" and it would extend the effective impounding period from twenty to forty-five days. No standard whatever is established; and the power to harass by impounding is destructive, as the American Civil Liberties Union pointed out in a brief submitted to the House committee. If protection is needed, existing federal laws which provide tough penalties for the distribution of obscene material through the mails, would seem to be entirely adequate.

An odd aspect of this latest "war against muck" is that the Post Office Department has apparently stimulated much of the pressure for new restrictive legislation. True, various church and civic organizations have urged the department to take action. But in turn the department has suggested the formation of local "decent literature" committees, has invited various organizations to inspect its "Chamber of Horrors" exhibit in Washington, and has conducted a well-organized campaign for new legislation. There is, of course, nothing improper about a department making known its views on legislation related to its functions. But is censorship a func-

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tion of the Post Office Department? Should it be concerned with censorship at all? At best the function has been appropriated; it has never been clearly assigned. Of recent years, the postal service has deteriorated rather alarmingly and Postmaster General Summerfield should be urged to concentrate his energies on improving this service rather than attempting to safeguard the morals of American youth.

Rock Candy

So much of the paper that accumulates on an editor's desk contains news of deceptions practiced, miseries endured or disasters pending that we are grateful for the arrival every other month of the *Contest News Bulletin*. This four-page "confidential" file is published by the Bruce Richards Corporation, "The Nation's Largest Contest Management and Judging Organization." The firm's offices are in New York, but the copy sounds as though it had been written in the shadow of the Big Rock Candy Mountain.

The manufacturers of Sta-Puf and Sta-Flo (nostrums used in washing machines) have recently completed a contest in which they gave away ten first prizes consisting of *two* automobiles each — a Lark sedan and a Lark station wagon. The advertising featured the "his" and "her" angle.

The Listerine people are now distributing ten swimming pools — a brand called "Living Pools," endorsed by Esther Williams. Purex (soaps and kitchen cleansers) prefers sweepstakes to the usual jingle or why-I-like-in-25-words contests. But sweepstakes are very tricky, because the Post Office is always getting them mixed up with lotteries. The entrant has to be allowed to choose a number without actually *buying* the sponsor's product, but at the same time must be made to feel a terrible heel for taking advantage of good old Purex. This is all worked out by a system of coupons.

The most popular prize, according to Bruce Richards researchers, is a trip (for two) to Hawaii. Twenty-five backyard chefs, survivors of a barbecue recipe contest, are about to be flown to the 50th state by Kaiser Foil and will there engage in a "cook-off" to determine the world's "cook-out" champion. Zenith Hearing Aids is also running a trip-to-Hawaii contest, with the proviso that "all prize winners must be hard of hearing." Keen-eared contestants may designate deaf friends to take the trip for them.

The thing that makes this sort of enterprise so funny is that the reward is completely disproportionate to the effort expended or the end desired. And the reason why the joke seems so tart and lively is that these contests are slapstick versions of the whole sanctioned-by-God free-enterprise system.

RETHINKING THE SECURITY PROBLEM

NEW HOPE FOR DISARMAMENT . . *by J. David Singer*

AFTER A PERIOD of more than a decade in the doldrums, broken only by occasional and sporadic flurries of interest and activity, Soviet-Western disarmament negotiations appear as if they might once more be headed for a round of renewed activity. The diligence (if not success) of the one-year-old talks on a nuclear-test ban in Geneva, the Khrushchev speech in the U.N. Assembly on September 18, the response the speech generated, and the recent Big Four decision to create a new disarmament body, all point to the likelihood of some intensive diplomatic action in the coming months. Within three days of Mr. Khrushchev's address, the Assembly decided to place his proposal on the agenda of the First (Political) Committee. Whether it be a belated awareness of the significance of weapons-control to their national security, or simply a response to the public and governmental hue and cry in most nations of the world, the Western governments have been unwilling to write off as mere propaganda the patently inadequate proposal which the Soviet Premier offered to the U.N.

If this resurgence of interest and activity is not to go the way of previous efforts, it is essential that some basic rethinking of the entire security problem be undertaken in the near future. And crucial to this re-evaluation is a willingness to abjure the easy but unproductive pastime of automatically attributing prior failures to one side or the other: a careful study of the negotiations since 1945 clearly indicates that both the Soviet and the West are highly vulnerable on these grounds. Neither has assumed what could honestly be termed a far-sighted or responsible position on armaments reduction.

Perhaps one of the most troublesome of the general questions involved is that of the relationship among disarmament, tension reduction and political settlement. It may safely be argued that failure to appreciate the nature of this three-cornered relationship has been a major obstacle to the successful reduction or elimination of both nu-

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clear and conventional weapons. My purpose here is to attempt to clarify the nature of this critical set of interactions, and thus perhaps clear the way for a more successful attack on the specific complexities of disarmament itself.

Probably the most important consideration is the kind of psychological, military and political setting within which the negotiators and policy-makers must operate. First of all, their dominant and most powerful concern is and must be for the physical security of their own nations—not some vague "national interest" or some imprecise ideological dogma, but the survival of the state, the regime and the people. Secondly, there is nationalism, as pervasive in Russia and America as in Asia and Africa, affecting not only the masses in all parts of the world, but their leaders and policy-makers as well. Those who lead the nations and make the foreign policies are both producers and consumers of nationalism, and thus as suspicious and hostile toward one another as the masses to whom they direct their emotional and over-simplified appeals.

Superimposed on this distrust among opposing policy-makers is the third and most crucial ingredient — the military arsenals. Not only does each regime attribute to the other a desire to increase its power and security at their expense, but each sees that the other has the weapons with which that desire might be pursued. And within this awesome setting, built of hostility and weaponry, each elite will inevitably equate the other's military *capability* with his military *intentions*. The policy-maker who evaluates his adversary's stockpile in other than the most cynical terms would be taking an unheard of and inordinate risk. Not to be afraid may be to court disaster.

To summarize then, this fear which dominates the policy-makers of the Soviet and Western camps is the natural resultant of their mutual suspicion and their mutual military stockpiles. The obvious approach to this problem would be to seek either (1) reduction of the tension between the two sides, thus diminishing the expectation that the other might intend to *use* his weapons, or (2) a reduction of the *weapons* themselves. But since tensions produce arms, and arms produce tensions, it is clear that the only effective way to break out of the vicious circle is to reduce both arms and estimated intentions more or less simultaneously.

LET US turn now from this description of the arms-tensions problem to some possible avenue of escape from the dilemma which it poses. There seem to be two major ways of breaking out of the vicious circle—one which might be called the *tensions*-first approach, and the other, the *arms*-first approach. Most American opinion-makers (particularly news analysts and spokesmen for foreign-policy organizations) lean to the tensions-first approach, and argue that since the weapons are merely a result and reflection of a deeper problem, the latter must be solved first. That deeper problem lies in the tension and suspicion existing between the two major powers. The way to eliminate that tension, it is then further contended, is to expand trade and increase cultural contacts between the peoples of the opposing camps; as they get to know one another better, they will develop an increasingly greater trust and confidence in each other. The more trust and confidence between the peoples (and the leaders) on both sides, the less tension there will be, and consequently less of a need to maintain high levels of armament. If, as is argued, the armaments are merely a reflection of the deeper problem of tensions, the decrease in tensions must lead to an inevitable decrease in weapons levels—both conventional and nuclear.

The trouble with this analysis is that it ignores (or at least de-emphasizes) the role that the arms themselves play in the preservation of the tension and fear. As I suggested above, the fear experienced by political leaders is a result not only of the hostile intentions ascribed to their opposite numbers, but of the very weapons available to them. How can we expect those responsible for a nation's security to begin disarming as long as the potential enemy—no matter how many exchange students and trade missions have gone back and forth—retains his capacity to strike a devastating military blow? As long as he keeps his weapons, one must assume that he might use them. In addition, there is considerable doubt that these proposed tension-reducing activities can actually achieve that purpose. If national preparedness requires not only military readiness but a unified citizenry willing to pay the taxes, produce the men in uniform, acquiesce in the reduction of civil liberties, and tolerate increasingly dangerous levels of radioactive contamination, the leadership cannot permit the public to question the hostile intent of the other camp. Thus, even if enough Americans could meet enough Russians (and vice versa), revise their earlier images and retain them after returning home, the elite would still have to continue the propaganda barrage. In this century of total war, governments require near-total preparedness. It would seem, then, that the tensions-first approach is unlikely to lead to any real disarmament.

A SIGNIFICANT variation on the tensions-first theme, and one held by many political scientists and historians, is the political-settlement approach. The general thesis here is that national armaments reflect the tensions which, in turn, have been generated by the existence of unresolved political issues. Thus, it would follow that the first thing to do is seek a negotiated settlement of such political problems as have resulted in the division of Germany and Korea, or the Soviet occupation of Eastern Europe. The weakness in this approach, however, is that it presupposes a major distinction between political settlement and arms reduction, and that the two sets of problems can be dealt with separately. Yet George Kennan (clearly of the political-settlement school), in attempting to formulate a plan for the reunification of Germany, for example, felt compelled to tie this solution in with "disengagement," which clearly smacks of disarmament. How, for example, can one distinguish between withdrawal of military forces from a key strategic area and the elimination of the weapons available to those forces? The distinction seems far from clear, and perhaps the opposition of the pol-

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cal-settlement people to disarmament is merely a semantic one. If so, they are not far apart from the proponents of multilateral disarmament negotiations.

THE ADHERENTS of the arms-first, or direct, approach to disarmament assume that if the existence of weapons in the hands of the acknowledged competitor suggests not only *ability* to attack, but possible *intention* as well, "the way to disarm is to disarm." The trouble here, though, is that this pervasive fear and threat to one's security still dominates and paralyzes any possible negotiations. Since neither trusts the other to adhere to its agreements, emphasis is placed on inspection and verification. Only a constant assurance that the other is adhering to the agreed disarmament schedule will lead the nation to continue its own disarmament. But here is another difficulty. We may have inspection techniques adequate for verifying the cessation of large H-bomb tests, for example, but so far we have nothing reliable for assuming compliance with an agreement to stop further production of nuclear bombs or, more important, to reduce existing stockpiles. And while a ban on the tests might be a welcome beginning, it can hardly be viewed as a major step toward disarmament; a ban on production and (ultimately) on possession itself is the only meaningful disarmament in nuclear weaponry.

How then, can we cope with this element of fear in the arms-tension dilemma? It seems to me that only two possible solutions exist, and neither will be palatable to those seeking disarmament and security at a bargain-basement price. One is to establish a series of U.N. depots in key areas of the world, and arrange for the *transfer* of weapons to these depots according to a carefully staged schedule. Thus, in place of the classic concept of *scrapping* weapons, the signatories to any disarmament treaty will gradually turn over both the legal and physical possession of their weapons—in accordance with a mutually acceptable time schedule—to prearranged U.N. depots strategically placed around the globe. If this were done, the nation contemplating a disarmament agreement need have less fear of the consequences of a breakdown or successful violation of the accompanying inspection system. Its leaders would know that, in event of violation by the other, it could automatically and quickly re-acquire whatever weapons it needed to redress the imbalance which evasion had created.

Another possible solution, even less palatable to our enthusiastic defenders of national "sovereignty," might be the creation of a U.N. police force with the political powers and numerical strength not only to take gradual possession of these Russian, Chinese, American and British weapons (for example), but to maintain and operate them. Thus, if a major violation were to occur, the U.N. force would have both the power and the responsibility to protect whichever nation might be the possible victim of any evasion or duplicity.

TO CONCLUDE, until there is widespread agreement not only that there is little national security in the weapons race, but that the race itself will have to be checked (at least at the beginning) without any prior settlement of major political issues or significant reduction in tension, the prospects for success are meager indeed. The tensions-first approach founders on the rocks of fear generated by the weapons themselves; the political-settlement approach requires the separation of the inseparable, and the disarm-by-disarming approach usually fails to meet the legitimate security requirements of the nation which gives up part or all of its sole and traditional means of self-defense.

Thus, for the coming disarmament negotiations to make any real dent in the menacing spiral of weapons technology, production and distribution, both sides will have to make two key decisions. One is that any partial reduction in armaments must have a more or less equal impact on the military capabilities of each side, so that the present rough (now menacing) parity may be maintained. The other is that, as the nations' capacity for self-defense is diminished, the United Nations must be given the political and military power to step into that void and offer a reasonably reliable means of protection for those who carry out their disarmament commitments in good faith. Otherwise, we are doomed to return once again to the dubious security of an increasingly unstable balance of terror, with arms development and production resuming at the present feverish pace.

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East Germany Is No Mirage . . *by Frederick Kuh*

"There is only one way out [of the German question]," Premier Khrushchev told the National Press Club during his visit to this country. "We must acknowledge that there exist two German states . . . and conclude peace treaties [with both]." The West, of course, does not recognize East Germany; and out of this policy of nonrecognition arises the question as to whether the German Democratic Republic does or does not exist as a viable state.

Frederick Kuh, veteran Chicago Sun-Times *foreign correspondent, and one of the very few American newsmen who have ever been permitted to roam through East Germany at will, herewith gives his views on the question.*

—EDITORS

East Berlin

THIS REPORTER lately traveled 1,500 miles by car from Berlin to the Baltic coast, then back to Berlin by another route and on to the Polish border and through industrial Saxony into the forests of Thuringia. He stopped at will. He spoke freely to whomever he chose. He roamed through many factories and talked with working men and women. He lingered in the countryside to chat with peasants on private farms and collectives. He met university professors and writers—and achieved the almost unprecedented distinction of never interviewing a taxi driver.

The extensive journey left an impression of rapid industrial advance on all fronts, and a distinct rise in living standards. East Germans are eating better than a few years ago (some, of course, eat better than others); they are better dressed. Children look happy. Cafes and restaurants are crowded. A Leipzig night club, with seats for 350, was overflowing the night this reporter visited it.

Factory workers evince little discontent. With more goods appearing on shelves, they want more pay—hardly an idiosyncracy. Many amenities available in West Germany are lacking here, but the discrepancy is diminishing. Educational opportunities for workers have increased enormously: in 1928, 2 per cent of the student body at Leipzig (since renamed Karl Marx) University were the children of workers and peasants; today the percentage is about 60. (On the other side of the coin is the fact that children of middle-class parents have often been barred from the universities, which may be one reason why 1,350 doctors—among thousands of other citizens—fled East Germany in the last eighteen months.)

There is ferment among the farmers, however. Generally, this reporter found them more fearful than any other East Germans of speaking frankly to an American visitor. The latest available statistics—end of 1957—show the failure of the Communist Party to rally the people on the land. Total party membership then was 1,472,000, of which 42.3 per cent were professional people and white-collar workers; 33.8 per cent industrial workers; 2.9 per cent collective farmers and 2.1 per cent private farmers.

But the peasants are neither organized nor articulate in their discontent. The Communist regime's strongest opponent here is the church. Some years ago the government introduced an oath known as "the consecration of youth" for boys and girls who at fourteen enter the Youth Movement. For many East German youngsters, this oath supplanted confirmation in the church. The clergy were angry, and until 1957 refused to confirm anyone who had taken the oath. Now it has yielded—albeit resentfully—on the point. It is worried now about another problem. In the East German Pioneers, composed of 1,300,000 children between six and fourteen, the church correctly sees a state attempt to wrest education from all religious influence.

THE RELATIVE stability of the atmosphere, and the rising living standards, are a reflection of the industrial boom. The country is today second only to the Soviet Union in industrial importance among states in the European Communist camp. Its industrial output has risen from 42 in 1946 (taking the prewar year of 1936 at 100) to 250 this year. According to Bruno Leuschner of the East German Planning Commission, steel production has increased threefold since 1950, and iron fivefold. Electric-power output jumped from 14 billion kwh. in 1936 to a scheduled 38.3 for this year; the country is stated to top all other European countries in per capita power output.

A familiar Communist slogan predicts that East German per capita consumption will match that of West Germany by 1961. First Deputy Prime Minister Heinrich Rau is more cautious in his forecast, but points to a trend: East German industrial production rose 10.9 per cent in 1957-58, while the corresponding figure for West Germany is given as 3.4 per cent.

THE East German advance is being pushed hardest in machine manufacture; according to Herr Rau, the country has already surpassed the Soviet Union in the export of machinery. A seven-year plan, now in process of execution, displays characteristic Communist boldness. By 1968, a gigantic plant—it will encompass a hundred buildings spread over seven-and-a-half miles—will be completed forty-five miles outside Dresden. Its production will pivot on a ten-year-old discovery for making coke from soft coal (one of East Germany's few plentiful resources), and will enable East Germany to reduce its costly imports of oil and anthracite.

Stalinstadt, two miles from the Polish frontier, was once at the heart of one of Germany's most backward areas; recently built, it now has a population of 21,000 — the number is slated to double by 1965 — whose average age is only twenty-six. Now producing iron, it will soon produce steel.

On the Baltic coast, the East Germans are constructing a huge port at Rostock which will make them less dependent on West German ports such as Hamburg. The new harbor will begin functioning next spring, but will not be completed until 1965; it will include two pipelines which will funnel petroleum

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imports into the country's interior. Here, too, a shipyard begun in 1957 is growing swiftly; two years ago it launched 35,000 tons of shipping, and this year production will reach 90,000 tons.

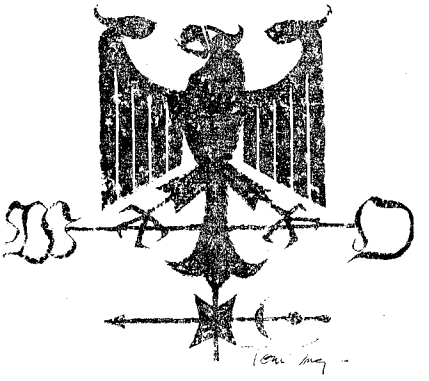
EAST GERMAN leaders, discussing these impressive economic gains, invariably point out the handicaps which their country faced from the beginning. First of all, when the Allies carved up Germany, the lion's share of industry went to the Western half. To East Germany went only 6.6 per cent of the nation's steel production and 2.7 per cent of its anthracite. West Germany was given the bulk of the chemical industries, including 90 per cent of coal-tar dyes output, 80 per cent of sulphuric acid, and 75 per cent of the production potential for fibers and artificial textiles.

Herren Rau and Leuschner, the two top economic members of the East German Government, stressed to this reporter the additional advantages West Germany enjoyed in the millions of dollars of American aid which were poured into the country under the Marshall Plan and its successors. But in so doing, they found it convenient to omit certain extremely relevant factors:

1. Herr Rau, replying to this reporter's question, stated that since 1950, the German Democratic Republic had received Soviet credits totaling about 2 billion marks (or $480 million at the official exchange rate). This substantial sum accrued to an area and a population one-third that of West Germany.

2. While the Western powers put an early halt to the dismantling of factories in their zones of Germany, the Soviet authorities removed huge industrial installations from the East Zone. This is a factor which seems to elude Communist memories when they try to explain their state's lag behind West Germany.

3. Herren Rau and Leuschner, as well as other East German political



leaders, stress their country's shortage of manpower. But, unless pressed, they never mention one cause of this shortage: the 3,000,000 citizens who have fled East Germany since war's end. (It should be added here, however, that the refugee flow has dropped from 4,000 weekly last year to about 3,000 weekly this year; meanwhile, responsible Western authorities estimate that for every four who flee East Germany, at least one is now returning.)

FROM THE impressions gained during seven days of travel and observation, two contradictions struck this reporter. One is on the Communist side, the other on the West's.

Why have the East German rulers failed to ease political repression to correspond with the economic consolidation? They have shunned the moderate liberalization which Khrushchev substituted for the Stalinist terror. The contrast is even sharper between the rigid conformism in East Germany and the relative freedom under the Polish Communist regime. A member of the East German government seemed to despair of this correspondent's sanity when he suggested that the gain in prestige might offset the risk of liberalization in the press, speech, travel and other fields. The East German and Soviet masters of the German Democratic Republic appear resigned to an indefinite continuance of Stalinism here.

The contradiction in the Western camp's behavior is its pretense that the East German regime is nonexistent. The no-recognition policy seems to reflect a childlike notion that if we don't look, maybe this distasteful government will quietly go away. Against this naive assumption is the impression of permanence conveyed by economic stabilization and growth in East Germany.

HIDDEN CENSORS . . . *by Stanley Meisler*

IT IS fashionable in literary circles to snicker at Arthur E. Summerfield, the former Chevrolet dealer who may have produced one of the most publicized cases of poor judgment in the history of criticism. But the Postmaster General merely carried the logic of traditional Post Office procedures to their proper conclusion.

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Through the years, these procedures have led to the seizure of Tolstoy's *Kreutzer Sonata,* Boccaccio's *Decameron,* Aristophanes' *Lysistrata,* Hemingway's *For Whom the Bell Tolls* and Caldwell's *Tobacco Road* as obscene literature, and Sholom Aleichem's *Bewitched Tailor,* abolitionist pamphlets, discussions of the French Revolution, the *Economist* (London), and a Russian chess book as political propaganda.

Vested with these traditional powers of censorship, Summerfield, a man who admits to reading little fiction, decided that D. H. Lawrence's *Lady Chatterley's Lover* "taken as a whole, is an obscene and filthy work"; literary critics and at least one federal judge decided otherwise. Snickering at this difference in judgment seems like misplaced energy. Rather than examine the critical faculties of Summerfield, it would make more sense to examine the censorship powers of the Post Office.

The Post Office got into the business of checking non-first class mail

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for obscenity in 1873, when Congress passed the Comstock Law, which still is the chief weapon in the postal war on pornography. The history of censoring propaganda in the mails dates back to the Federalist days, but the present program derives its strength from a regulation set down on the eve of World War II. The scrutiny of mail for obscenity and for propaganda presents similar questions involving civil liberties; but, since they stem from different statutes and different histories, they are best considered separately.

THE COMSTOCK LAW states that anyone who knowingly sends or receives obscene matter through the mails may be punished by five years in jail or a $5,000 fine or both. Congress passed the law after an intensive, one-man lobbying campaign by Anthony Comstock, agent for the New York Society for the Suppression of Vice. A religious zealot who had become incensed over the increased traffic in erotic literature after the Civil War, Comstock wrote that obscene literature "like a canker worm, secretly eats out the moral life and purity of our youth." The Post Office appointed him a special investigator to enforce the Comstock Law, and he spent many years trying to clean up the mails.

Although the law specifically provides for enforcement only by criminal penalties, the Post Office has inferred that the statute also meant to give it civil powers of enforcement. Postal logic runs this way: if Congress does not want obscene matter in the mail, then the postmaster surely has the power to remove that matter as well as to arrest the men who sent it or asked for it. If, for example, someone sent a time bomb through the mails, you would not expect the postmaster to seek a conviction before getting rid of the bomb. With this reasoning, the Post Office has assumed the power to decide for itself whether mail is obscene and if so to remove it.

The Post Office employs three civil devices in eliminating what it considers obscene matter. The case of *Lady Chatterley's Lover* illustrates the first: the impounding of suspicious material, followed by formal hearings to decide whether it is obscene and therefore unmailable. The delay between seizure and the final judicial decision can be financially crippling (although this was not the case with *Lady Chatterley's Lover*). *Big Table*, a little-known literary magazine, was not so fortunate. The Post Office impounded 441 copies of the magazine last March, not bothering to tell editor Paul Carroll about it for a month. By midsummer, the Post Office still had not made an official ruling, and the American Civil Liberties Union, which is defending the magazine, cannot appeal to the courts until a ruling is forthcoming. Even if ultimately the courts uphold *Big Table*, it is doubtful whether the magazine can wipe out its losses by selling a back-number issue. In this case, the magazine will have escaped conviction, but not the sentence. Under present rules, the Post Office penalizes first and only then seeks to justify the penalty.

In the second civil device used against obscenity, the Post Office impounds first class mail sent to a person who runs a mail-order business in obscene materials. The idea is to cut off his remittances. This device, unlike the others, is detailed in a postal statute which provides that first class mail may be impounded for twenty days while the department tries to prove that the letters should be returned to their senders because the company deals in obscenity and its business, therefore, is unlawful. But the Post Office has found it difficult to prove a business unlawful within twenty days, and it has asked Congress to extend the limit to forty-five days. This request the House approved last month by overwhelming voice vote, the lone dissenter being Representative John V. Lindsay (R., N.Y.). Critics say that the Post Office figures that cessation of receipts for forty-five days will drive a fly-by-night operator out of business even if the department never proves its case. But the Post Office replies that it needs the time for a full and fair hearing.

With its final civil device, the Post Office denies second class mailing rights to any periodical that, in its opinion, continually prints obscenity. In the *Esquire* case of 1946, the Supreme Court implied doubt that the department had the power to punish future issues of a magazine without examining them, but the practice has continued.

Besides these civil sanctions, the Post Office also invokes the criminal provisions of the Comstock Law. But the Justice Department has not been able to get many convictions in these cases. "In some cities, courts interpret obscenity so liberally that getting indictments is very difficult," the *Postal Service News* complained in its June issue. The official department magazine is particularly critical of juries in New York, whose standards "may be vastly different from those in the smaller, less blasé, cities and towns in which so many of us live." These complaints, however, tend to reflect more on the department's judgment than on New York juries.

THE Post Office Department reports having received more than 50,000 complaints about obscene matter last year from parents, clergymen, school officials, parent-teacher groups and newspaper executives. Since World War II, the market in pin-ups, strip-sets, lust-ridden books and pure pornography has increased. While no scientific evidence pinpoints this as a cause of the accompanying increase in juvenile delinquency, many parents are convinced that common sense pinpoints it. In any event, they do not want their children receiving the stuff, and have joined church and community groups that demand help from the Post Office. There is no doubt that Summerfield's "war on muck" would have continued free of public criticism if he had not slipped on *Lady Chatterley's Lover*. Congress, of course, also feels this public pressure, and its committees studying pornography apparently sympathize with the position of the Post Office.

Thus the federal courts remain the only obstacle to the Post Office's exercise of its assumed censorship powers. In the *Roth* case of 1957, the Supreme Court said that the First Amendment does not protect obscenity at all, for obscenity, as Justice William J. Brennan, Jr. put it, is "utterly without redeeming social importance." But the court also defined the standard of obscenity:

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"whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." It is this standard that Summerfield seems to misunderstand when he asks newsmen if they would read *Lady Chatterley's Lover* aloud to their children. Judge Frederick vanPelt Bryan simply read the book and, applying the Supreme Court standard, decided it was not obscene. He did not rule at all on the Constitutionality of postal censorship procedure, although he did imply that he felt it conflicted with the First Amendment.

The Constitutionality of postal procedure probably will not be settled until the Supreme Court, confronted with an obviously obscene book, has to consider the method of seizure, rather than the book's content. Professors of Law James C. N. Paul of the University of Pennsylvania and Murray L. Schwartz of UCLA, culling the opinions of Justices from past obscenity cases, find that Justices Hugo Black and William O. Douglas oppose any suppression of sex material unless there is clear and present danger of harm, Justice John M. Harlan opposes all federal control of obscenity, Justice Brennan demands jury trials in censorship cases, and Chief Justice Earl Warren feels that the conduct of the person selling the material, not the material alone, should be judged. In short, at least five members of the Supreme Court probably would rule that the present Post Office system of censoring obscenity is unconstitutional.

But it is not certain that the Post Office plans to maintain its present questionable system. Under the guidance of a dynamic, new general counsel, Herbert B. Warburton, the department is studying ways of revising its procedures to meet the objections of book publishers and civil-liberties groups. Warburton hopes to ask Congress for legislation that would put the power of judging obscenity increasingly in the hands of the courts.

The Constitutionality of the current campaign against propaganda also seems doubtful. Working with the Post Office, the Federal Customs Bureau checks foreign non-first class mail as it enters the United States. If translators and inspectors decide that the mail contains foreign political propaganda, the Post Office usually holds it up and notifies the addressee that "such matter ordinarily would be treated as non-mailable," but that he may receive it by signing a form stating that he ordered, subscribed to, or desires the publication. Less than half the addressees sign, and the Post Office destroys the unclaimed material.

An Alice in Wonderland quality surrounds this procedure, which is not outlined in any statute, but is derived from an Attorney General's interpretation. In 1940, Attorney General Robert H. Jackson ruled that the Post Office could seize several large shipments of Nazi propaganda, and he justified his ruling in these steps: (1) the Espionage Act of 1917 says that no one may mail material that is treasonable or is used to violate any law of the United States; (2) the Foreign Agents Registration Act of 1938 says that all persons in the United States acting as agents for a foreign government must register with the Federal Government; (3) if someone in the United States mailed foreign propaganda but did not register, he would be breaking the registration law; (4) this propaganda then would be material used to violate a law of the United States—the Registration Act —and, under the Espionage Act, would be non-mailable; (5) if a person living outside the United States uses its mails to spread foreign propaganda, he should be considered the same as a foreign agent living in the United States; (6) since the mailer in Moscow or Berlin or Prague has not registered as an agent with the U.S. Government, he has violated the Foreign Agents Registration Act; (7) under the Espionage Act, his material is non-mailable.

Under this labyrinthine theory,

"I've got to be careful — it might be a book!"

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the Post Office may destroy all foreign propaganda without giving the addressee a chance to sign a form requesting it, or even without telling him about it. This is exactly what the department did during the Korean War when, pressured by the House Un-American Activities Committee and the Senate Internal Security Subcommittee to stop the influx of Communist mail, it revived the Jackson opinion. The current system of notifying the addressee, initiated as an experiment this year, actually represents an attempt by Warburton, the new general counsel, to bring some intelligence and fairness into a program that had been mostly chaos for several years.

Chaos erupted because the Post Office and Customs Bureau set after propaganda without much advance preparation and without a set of rules of procedure that the public could read. On one occasion, a non-Russian-speaking Customs worker in St. Paul was handed a Russian-English dictionary and told to check through a warehouse of material and pull out all items that contained Communist propaganda. Procedures such as these resulted in the confiscation of a Soviet book titled *Chess for Beginners,* German-language editions of the works of Karl Marx, *Pravda,* and *Catholic Imperialism and World Freedom,* an anti-Church book published in England. Universities, libraries, political scientists and journalists soon discovered that important Russian journals and newspapers were not reaching them. *Mathematical Review,* for example, received no Russian mathematical publications for a year. In 1955, the American Friends Service Committee discovered that the Post Office had destroyed 500 copies of an English pamphlet, written by a member of Parliament, which condemned the United States for its part in the Guatemalan revolution.

Complaints descended upon the Post Office, and it gradually revised procedures until the present program evolved. In the main, the department now apparently holds up only Communist propaganda coming from behind the Iron Curtain and releases most of it to anyone who signs a form. Propaganda sent in bulk, however, is destroyed. But, ironically, a registered foreign agent in the United States can receive all the Communist propaganda he wants without any trouble at all. The Jackson opinion, in its acrobatic weaving of the Espionage and Foreign Agents Registration acts, fails to cover registered Communist agents.

Security is the main rationale for the postal anti-propaganda program. Proponents argue that it is dangerous to allow subversive propaganda to reach the foreign-born in the United States, especially when it is written in their native tongue. At the very least, they say, the Post Office should identify it as propaganda. But this puts the Federal Government in the business of deciding what opinions are fit for an American to read. When you require a man to state that he desires Communist mail, for whatever purpose, he can easily interpret that requirement as a form of intimidation, and is quite likely to do so.

The American Civil Liberties Union has started a suit in behalf of the managing editor of the *American Journal of Sociology,* who refused to sign the forms for delivery of two Czech magazines. It is possible that General Counsel Warburton welcomes the suit as one way of clearing up the question of the program's Constitutionality and legality.

AT PRESENT the Post Office's administrative procedures have no solid authorization from Congress. This is true of its campaigns against both obscenity and foreign political propaganda.

Congress, of course, might not be averse to granting the Post Office direct authorization if called upon, especially in the field of obscenity. But, at the very least, Congressional review would expose postal procedures in these fields to public scrutiny for a while. The Post Office, on shaky Constitutional ground, often censors mail out of the public gaze. This activity receives attention only when some official loses his discernment in zeal and mistakes a chess book for a political tract or a classic for a French post card. In fact, until the courts or Congress act, poor judgment, like that of Postmaster General Summerfield, is all that keeps the problems and procedures of postal censorship in public view.

JIM CROW WEARS A SOMBRERO . . *by John Rechy*

A COUPLE of months ago, when I was last in El Paso, Texas—my home town — I looked out the back window of my mother's government-project apartment, toward an enclosure for garbage cans, where a sign warned that anyone littering the area was subject to a $200 fine. I saw an old man going through the cans. At first I thought he was looking for boxes or rags, which he would later sell, but then I noticed he was discarding those items and had come across what he was really looking for: some kind of food matted at the bottom of a can. He scraped it with a stick and ate it.

Before I left El Paso, at least four different groups or single persons had come to my mother's door, standing there like Indians with their colorful homemade sacks to carry their bounty in—usually something like an apple, an old pair of pants, a rolled-up *tortilla* with beans or *picadillo* in it.

Sunday mornings especially these pitiful bands leave their hovels at the extreme southern edge of the city, beginning their rounds of the Southside government housing proj-

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ects immediately after Mass. It seems incongruous that they should concentrate their begging on the poor Southside and the fringe neighborhoods along the tracks. The reason is that they are hesitant to invade the richer sections of El Paso—Kern Place, Rim Road, Sunset Heights.

A substantial group of middle-class Mexican-Americans lives nicely integrated with its Anglo-American neighbors in the newer communities of El Paso. But I don't intend here to speak of that group. The group which is the subject of this article is the one that makes its home in this city's Southside and forms a closed world of its own.

EL PASO (generally warm and sunny and very picturesque) is located on the border of Texas, New Mexico and Mexico, separated from the latter by a winding stretch of sand called the Rio Grande (dominated by a huge statue of Christ on the peak of Mount Cristo Rey overlooking Juarez, in Mexico, and El Paso, in Texas), and linked to it by two bridges where American immigration police stand guard against invading Mexicans without passports.

Daily, a stream of American tourists flows back and forth across the bridges, laughing, lugging liquor and —on the return trip—sporting giant "Mexican" straw hats ("suhm-bray-rows," as the tourists call them). The happy Americans straggle past *bracero* applicants—all wooden chicken boxes and holy amulets and untrimmed whiskers—who wait patiently in line to be allowed to cross over into the rich, the fertile, the promising American farm country.

At least half the population of El Paso is Mexican-American, and from the railroad tracks southward it is almost exclusively so. Although the geographical boundary that separates Mexico from the United States is the Rio Grande, the real boundary is formed by the tracks that daily block the flow of city traffic with fat freight trains spilling business into this prosperous, growing Southwest border area.

On the wrong side of these tracks lies the world of poorer-class Mexican-Americans, a world of common characteristics of which grinding poverty is the most outstanding.

Social as well as economic circumstances, of course, have created this world. Prejudice against the Mexican is sometimes subtly, sometimes blatantly, manifest; whatever its form, it permeates the Southwest air as smog permeates downtown Los Angeles. How vividly I can remember from my own childhood those humiliations to which members of all minority groups are subjected early and which at the time—and this is the greatest humiliation of all—tempt one to forego one's kin and attempt to "pass."

As early as kindergarten, I heard Mexican-Americans like myself referred to as "greasers," and I learned that, for some strange reason

which I still haven't discovered, we were supposed to put lard on our hair. There was a child next door (he always smelled of the salted crackers his mother was constantly feeding him) who wasn't allowed to play with us. His mother would haul him inside the house as he protested through cracker-crammed mouth that he wasn't doing anything deserving of punishment.

In high school I asked an "American" girl—from exclusive Kern Place, as a matter of fact—to a big school dance, and she accepted. Her mother waited until one hour before I was to pick up the girl (I had, of course, ordered a ridiculously giant corsage) to telephone me that I must keep away from "Jeannie"—and didn't I know my own place?

At almost the same time, my best friend in school, a particularly popular student who was apparently unaware of my descent, informed me that he had telephoned my house and the "dumb Mexican maid" hadn't been able to understand him. "They should send them back across the border where they belong," he said, voicing an opinion often expressed in Texas. Of course, we had no maid, and the person who had answered the telephone was my mother.

STILL LATER, I was invited by two "unsuspecting" Anglo friends to go with them to the ranch of one of their Texan grandfathers in East Texas, and as we drove through what is indeed miraculously blue-skied, green countryside, we decided to stop and eat. At a two-bit run-down restaurant (I remember lots of buzzing bugs sailing lazily in and out the unscreened windows) I saw an elaborately lettered sign which read:

WE DO NOT SERVE MEXICANS, NIGGERS, OR DOGS

Later, at the ranch, the hostess said at dinner that she never touched her food until the Mexican servant was out of her sight.

In Dallas, an eating establishment boasts that "No one need eat out of paper plates here" — in other words, no patron need worry that a Mexican-American might have eaten off the restaurant's crockery.

Some towns in the interior of Texas segregate movie theatres, which play Friday and Saturday nights. The Mexicans are seated on one side, the Anglos on the other, the Negroes not at all. In this state that boasts of its easy relations between the two "races" and spews out editorial copy about its "friendly neighbors in the land of *Mañana*," these instances are not rare, and I remember one occasion in which, in an East Texas town, a visiting diplomat from the Mexican Government was refused service at a restaurant.

Despite all this, however, El Paso recently elected a Latin mayor. Considering the large number of Mexican-Americans in the Southwest, this is remarkable only because it doesn't happen more often.

In Southside El Paso there exists among the people a clannishness that is very often denounced. Most

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Southside families subscribe to Mexican newspapers. They attend churches where Mass is said in Spanish. Because they speak a heavily accented English, which is easily and often caricatured, they speak only Spanish among themselves — the younger ones, a rhythmic Mexican jive which somehow matches the cadenced regularity of their "cool, bad" walk. In this world there is no greater object of contempt than the Mexican-American who "passes" or claims to be "Spanish."

THE clannishness of the Southside Mexican-Americans results from pressures imposed from without. In El Paso, for example—as elsewhere—school attendance is determined by zoning. Since the Southside is virtually a Mexican town, the schools there are populated predominantly by Mexican-Americans — and now also by Negroes. Integration was thus accomplished by one minority group accepting another. The schools, therefore, are politely segregated, just as the two "worlds" of North and South El Paso are separated by social circumstances and the incomes of the respective groups.

But the school situation is only one of a number of factors creating the clannishness of the Southside.

There is a constant awareness among this group of being looked down upon by the Anglo-Americans and, sadly enough, even by their more prosperous brothers of the Northside. The middle-class, "desegregated" Mexican-Americans of El Paso are very often apathetic to the conditions in the Southside; they are the people who, in some instances, pompously claim "Spanish" descent. Also, there is the ever-present tinge of social inferiority implicit in being poorer than most and in belonging to a group largely comprising maids and laborers who must mouth "sir" and "ma'am" to others, while they themselves invariably are called by nicknames.

This "Mexicanness," then, is a defensive measure in each of its manifestations.

There is, further, as I have already said, the imposition of a definite boundary separating South El Paso from the cleaner, newer sections of the city. The only homes which the poorer-class group can afford are in the Southside. They live either in tenements decorated by old, fading election signs and advertisements of Mexican movies at El Paso's Spanish-speaking theatre — *El Colon*, named after Columbus — or in the newer, cleaner tenements, which here as elsewhere are the government projects.

Once in a great while a stray Anglo family moves into one of these government-project apartments, and then, as if afraid of contamination, quickly moves away. Other than that, the projects are all inhabited by Mexican-Americans and Negroes — which means dozens and dozens of children.

To qualify for one of these units, the occupant must not have over a certain income. The houses are arranged in row after row of two-story apartments, or units, of identical construction, joined to each other by a common wall, through which it is next to impossible not to hear a neighbor's conversation and the constant flushing of toilets.

THESE rows of apartments line the Southside like giant cracker boxes. It is very easy to become lost among these identical buildings, and hardly a day passes at my mother's house that someone is not knocking, asking where apartment number so-and-so is located in that orderly maze of twin structures. When I am at my mother's, I have to count four rows from the corner in order to find hers.

Other not quite so lucky Mexican-Americans in the Southside live in the older sections, in dilapidated old tenements near the border, in close, crowded "apartment houses" whose front porch might be a rickety balcony somewhat pitifully adorned with potted plants in a kind of parody garden. These apartment houses stretch beyond the newly built Paisano Drive and run into the government projects. In the stifling summer, the children play in the streets, against the impatient, protesting honking of automobiles. They stay out late in order to avoid the rancid heat inside and the giant cockroaches which thrive on the weather and the surroundings.

There is often an incredible poverty among these people. Many are constantly unemployed, through no fault of their own. The kinds of jobs the men in this group can usually get are those of laborers; the women can work in restaurants or become maids. The competition is so stiff that maids are sometimes available for as little as a dollar a day, plus meals.

And over this world of characteristic poverty looms the long-legged figure of the rich Texan — the rancher, strutting across San Jacinto Plaza in the center of town. In Juarez, across the border, where prostitution is sometimes the only means of livelihood available—where a young Mexican girl can be had for as little as a dollar plus the price of a prophylactic during the "desperate hours" of the morning — this "rich" American forms his impression of the amoral Mexican. And this is the impression he brings back with him — not with horror at the frightful results of poverty and social neglect, but with the smirking of someone who has found a bargain. This impression, along with his Mexican "suhm-bray-row" and his allowed amount of liquor, is what the average Texan brings back with him after a night spent over the border.

A MEXICAN-AMERICAN child growing up in this atmosphere of implied inferiority and "differences" — knowing that if he gets through high school at all, he will have to go out and work immediately — quickly becomes aware of his bleak future. Naturally, this results in resentment and in the formation of the inevitable street gang.

Here, as in other cities, the police often add to the delinquency problem, becoming a kind of rival "gang" themselves. In El Paso, the poorer-class Mexican-American boys whose families can't afford the "protection" that money is always able to furnish suffer the burden of the "war." The light-haired gangs of, say, Kern Place, in the expensive residential area of the city, are "just kids growing up"; but the dark-haired boys of the Southside are "delinquents." The *jura* — police on the prowl — are constantly

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rounding up the Southside groups, even when the boys are merely standing under streetlights outside of dingy grocery stores, or next to the Palace Theatre, because they have nothing else to do and nowhere else to go.

The circle which produces, typically, a member of an El Paso street gang is illustrated by the following incident, only one of many similar cases.

A young woman whose "junky" husband left her with four kids and nothing else went to work as a maid. The three boys, left to shift for themselves, naturally gravitated to the gangs. As a maid, the woman wasn't paid enough to support the family, and she couldn't receive welfare aid as long as she was working. Her solution was to stop working, apply for aid and — because this aid would still not be enough — take a lover. She couldn't marry him because, again, the aid would stop and the man's income would not be sufficient to keep them going. As her lover, he could help her financially and she retain the welfare aid. Even more important, she could now stay home to watch the children.

When the lover inevitably walked out on the woman, another took his place. The children experienced a string of such "fathers." On the day he was presented with a new "father," the youngest of the three boys wrote on the wall of his house, with black shoeshine polish: *"I hate my mother."*

In her anguish and despair, the mother grabbed the boy and held his hand over an open flame on the stove, burning away a crudely tattooed "burning cross" which proclaimed him to be an initiated member of one of El Paso's toughest gangs.

WELFARE groups in El Paso have a stiff problem. They provide needed relief, but there are too many poor. Like other such groups, they are tied up in rules and regulations and strict budget limitations which sometimes become very difficult to justify in certain instances. The following is an example.

When Mrs. Ochoa, an old woman who lived in the projects near my mother, was evicted for non-payment of rent, she moved into one of those tiny hovels near the Southern Pacific shops where women still do their washing outside, scrubbing on an old tin board. With the old lady lived a son, a hopeless alcoholic, and a grandson whom the daughter had left behind in order to go live with her husband in Los Angeles. A welfare group bought groceries for Mrs. Ochoa until they found out about the alcoholic son, who was always in jail. The aid stopped. Technically, the son is strong enough and young enough to support the mother and himself. Psychologically, of course, he isn't. But rules notoriously ignore psychology. The old woman became one of that sparse, pitiful band of beggars prowling from house to house along the Southside of El Paso. For weeks she had breakfast at my mother's, and she and the grandson and the son, when he was out of jail, lived on what she could beg.

Finally, all three moved to golden Los Angeles, where the week of their arrival the son was again in jail. In Los Angeles, the woman applied for help from a social agency. They offered her aid to this extent: the fare back to El Paso.

Queerly enough, these poorer-class Mexican-Americans have become

quick heirs of the American Dream. My mother's best friend comes over every afternoon to watch *Queen for a Day* on our television. She's been badgering the sponsors to get her on the show, and she writes a letter to them almost every week. What she would ask, if chosen Queen, would be a combination spectacles and hearing-aid set. Not too long ago she entered a contest for the hard-of-hearing, hard-of-seeing. She received a letter saying that although she hadn't won, she had become a "finalist," which entitled her to the hearing-seeing combination at a $50 discount.

She finally received the gadget, loved it, couldn't meet the payments, and so the set, with its comical, tiny batteries which had a way of going dead on her inopportunely, was taken away from her. Now she watches my mother's television from a position almost on top of the screen, her better ear cocked toward it, the volume turned up thundering — and she writes letters to Queen for a Day.

AND SPEAKING about queens — each year, around Christmas, the leading citizens of El Paso elect a queen of the Sun Carnival who entertains in high, Southwest style. From the time of the announcement of her election — around the time when San Jacinto Plaza in the center of the city becomes a veritable fairyland, with lights, trees, Santa Clauses, and Jesus in the Manger (and scratchy Bing Crosby carols playing all day) — she rules over the carnival activities: the parade with its tinseled floats, the football game, dances, luncheons. . . . The El Paso newspapers are crammed with pictures of the carnival festivities. Here's a picture of the queen at a reception and at the country club; and here she is with her inevitable brother from a Southern university, sir, who is now visiting our fair city; and here she is at a ball, and at a Ranchero breakfast, surrounded by the Important El Paso Texans decked out as cowboys. Yippeeee!!

My mother's friend, her faded eyes a foot away from the TV screen, watches it all, enthralled.

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BOOKS and the ARTS

What It Is We Lack

CONVICTION. Edited by Norman MacKenzie. Monthly Review Press. 237 pp. $4.

Emile Capouya

NO QUESTION but that the Welfare State in Britain owes more to Keynes than to William Morris. After the Second World War the Labour Party won a landslide victory, and might have chosen to invoke the headier ideals of the Socialist tradition — those that proceed ultimately from the French Revolution and are best expressed in the crude and classic formula, Liberty, Equality, Fraternity. Instead, the Party demonstrated that it was very much a child of our time. Rather than try to deal directly with the necessity for bringing about a renewal of social morality, ethics, style and tone, it adopted a technician's blueprint for achieving a guaranteed ration: feed the hungry their short commons, clothe the naked in decent black.

In 1945, that contracted program may have seemed to be the best, or the only, political tactic. In 1959, we see that it was bad political strategy. Britain's revolution has been to a large extent absorbed and neutralized; its architects have become place-holders in a system run by class and money on the old lines.

This is the point in history at which the contributors to *Conviction* have chosen to issue their manifesto. Under the editorship of Norman MacKenzie, who also wrote the first essay in the book, a dozen young left-wing Socialists (the two oldest are forty and the two youngest twenty-seven) have set down observations that, arising though they do from their authors' separate characters and interests, yet comprise a sketch of a social program concerned with the human person—its nurture, cultivation, protection and transcendence. Perhaps it is natural that so generous a view of governmental responsibility should be the property of a group of moral backbenchers — certainly, official Labour thunderers like Aneurin Bevan are innocent of any such philosophy — and young ones at that. It will be another of the banal tragedies of history if in time these radicals and the spirit they incarnate are absorbed and neutralized, whether by Government or Opposition.

At the moment, however, it is bracing to see people who are engaged in an activity that is recognizable as politics. (Anyone familiar with the recent attempt of a group of "insurgent Democrats" in New York City to replace the party *Gauleiter* with their own man will appreciate the implied distinction.) To an American it must seem that the rump represented in *Conviction* is in the enviable position of being attached to a genuine trunk, a privilege that the intellectual Left in our own country has not enjoyed in twenty years. The fact helps to explain the breadth and pointedness of the views developed in this book, as it does the dearth of political ideas in the United States.

> Will the future be different, or can we make it different? Can we avoid the Age of the Oligarchs, and defeat the faceless men of power? I believe we can. But we must know why we want to do this before we can say how we propose to do it. That means, first, we must regain confidence in man's ability to control the social and technical machinery he has himself created. This I put as the central Socialist objective. And the second is closely related to it. It is the belief that it is co-operation rather than conflict that gives dignity and purpose to our lives. The acquisitive society is based upon an ethic which runs directly counter to these two principles, and it is its denial of them that fundamentally makes me a Socialist, that makes me ask what life could be like if we treated our own capacities and the resources of nature reasonably, with the intention and the expectation of being happy.

With this piece of arrant Jacobinism, Mr. MacKenzie sets the style for the essays that follow: Peter Shore (who recently wrote, in collaboration with the young American scholar Arnold Rogow, a book called *The Labour Government and British Industry*) suggests that turning private enterprises into public corporations will not in itself advance the society of equals, but is more likely to produce a "power elite" *à la* C. Wright Mills or a "new class" *à la* Milovan Djilas, so long as the acquisitive ethic is countenanced by society, and its devotees are rewarded with power and perquisites; Brian Abel-Smith presents evidence for the view that the great beneficiaries of the Welfare State are the members of the middle class, and hints that it might be pleasant to spread welfare to the lower orders as well; Nigel Calder reminds us that science is producing, unasked, profounder revolutions than deliberate policy has thus far achieved, and that its blind dynamic must be made subject to our intelligence if policy is to have any meaning — and so on. All the essays are worth reading for the candor of tone and clarity of commitment that uniformly distinguish them. But four must be singled out as having special relevance to the American predicament.

PAUL JOHNSON calls his essay "A Sense of Outrage." It is in part a personal history, from which we learn the events that led up to Mr. Johnson's acquiring the indispensable animus for reform. In our outrageous world, nothing is rarer than a proper appreciation of enormity. The kind of man who cannot establish a synapse of rage between surplus wheat in America and famine in India will never help us establish the New Jerusalem; his place is where Dante put him, in the lowest circle, getting inspiration from Satan's breech. The first step toward a decent society is made possible by a lively hatred of whatever defaces the human image.

The gifted novelist, Iris Murdoch, is also a teacher of philosophy, and it is with a peculiar grace that she reminds us of the necessity for reasserting the traditional moral and ethical bias of libertarian socialism, and reincorporating it into the theory of reform. It is vital to know what one wants in these matters — if only to avoid the substitution of non-human for human goals that threatens whenever we begin to deal in a practical way with this tough world, and are tempted to make our intruments our ends.

"Culture is Ordinary" is the title, leitmotiv and conclusion of Raymond Williams' contribution to *Conviction.* By implication, Mr. Williams is opposed to the theory, advanced by an eminent American teacher, that culture, sweet and sustaining, has from Paleolithic times to the present been the product of the middle-class bees in the Hive of

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Intellect. The contrary notion, culture broad and general as the casing air, is a more suitable diet for American radicals. Contempt for the masses sorts well with a society run by warlords, plutocrats, or mandarins, but not with a society avowedly egalitarian, such as has been sketched in our own country, and whose perfect likeness we trust some day to see. Eliteism is mostly sham; in the context of American manners, its interpreters are part of that army of *couturiers* and caterers whose mission in life is to provide symbolic denials of the quaint American faith that one man is as good as another. Do we really suppose that the ingenuous advertising appeals to "those who can afford the best" are without social consequence? That it can be a matter of indifference if a cigarette manufacturer encloses with his smokes an emetic little squib suggesting that the lucky purchaser is a member of a natural aristocracy of birth and talent? These are outward and visible signs to set apart those whose bank accounts are in a state of grace, and what they import ultimately is the rule of the financially *bien pensants*. The assertion that the middle class is the sole culture-bearing stratum is intended to lend sanction and prescriptive force to social caste. Mr. Williams is right. Culture is ordinary.

FINALLY, Mervyn Jones argues that the renunciation of war, so urgently commended to us by nuclear physics, is the *sine qua non* for the regeneration of society. However, he is a pacifist only in a Pickwickian sense, for he adds that we "must seek to render powerless all those persons and institutions which hold for us no other promise than death." Just so. And if, by good luck or good management, we escape atomic destruction in the next few days, months, or years, we should not forget the system that orchestrated our lusts and fears into a prepotent war machine, and left our decent selves to languish.

In thinking about *Conviction*, and the quality of social responsibility it embodies, one cannot suppress the unhappy reflection that a comparable effort seems at this moment to be beyond the power of Americans to achieve. But surely we are that people of whom Goethe wrote: "America, you are happier/ Than our old Continent;/ You have no ruined towers/ And no ungrateful rock." That is, no crippling history of caste and class, no cramping substratum of necessary poverty. What do we lack? The will, apparently. And beyond that, a program, a party, a vital center for reform.

Through Art to Sanity

THE TRADITION OF THE NEW. By Harold Rosenberg. Horizon Press. 285 pp. $4.95.

Harold Clurman

THESE essays, which appeared separately during the past nineteen years in several advanced literary periodicals, deal with painting, poetry, politics and sociology. Their collection under the title *The Tradition of the New* is justified. They help toward an understanding of our present cultural situation.

It is easy to say we are living in chaos, but it does little good to say it. Nor is there much point in bemoaning the fact. One must experience it, struggle with it, nearly succumb to it and in some "crazy" way order it within oneself. To do this one has to be a lucid anarchist, a conscientious demon, a mystic with a hard head.

This, after a fashion, describes Harold Rosenberg. Numerous passages will strike some readers as obscure, but it is not the book's difficulty but its unity and creative value which should be emphasized.

To perceive this unity I suggest that the reader begin with the first two papers on American painting and then skip to the final piece called "The Orgamerican Phantasy" which surveys the findings set forth in such books as Riesman's *The Lonely Crowd,* Spectorsky's *The Exurbanites*, Whyte's *The Organization Man.*

"To be legitimate," Rosenberg says, "a style in art must connect itself with a style outside art." Our world is increasingly depersonalized, a world in which the individual is coaxed, flattered, seduced, bamboozled and blackmailed into transforming himself into a faceless, tasteless, conscienceless instrument to serve the requirements of a super-efficiency that lacks true human purpose. The scope of this regimentation is so extensive that everything — including the details of our private lives — ends by becoming a function of the process.

No wonder then that America leads in what Rosenberg calls "action painting" and others call "abstract expressionism" — one of the less publicized forms of our flight from the machine incubus outside. Of this new art Rosenberg says, "A painting that is an act is inseparable from the biography of the artist. . . . Anything is relevant to it. Anything but art criticism. . . ." With this painting "The Great Works of the Past and the Good Life of the Future become equally nil." "The new painter gesticulated upon the canvas and watched for what each novelty would declare him and his art to be." This movement, "essentially religious" (in a secular, extremely personal sense), is one in which the artist must possess "the force to refrain from settling anything."

Rosenberg is in sympathy with this art: he understands its sources and relates to its impulse, but he is neither its apologist nor its booster. With the tricksters such art becomes little more than "apocalyptic wallpaper." Having a genuine critical sense (though unfortunately he discusses no particular artist) Rosenberg states that "The American vanguard painter took to the white expanse of the canvas as Melville's Ishmael took to the sea." This is the rootless man's adventure into chaos to find what might be found there: especially what he seems wholly to have lost — his identity.

This, if you will, is romanticism — an extreme romanticism. For although the romantics of yore were in rebellion against societies which had ceased making sense to them, they harbored the enthusiastic belief that they knew what would make sense. Our present-day romantic is no longer sure of anything except a mad awareness and need to plunge into some realm — almost any realm — away from the "air-conditioned nightmare" he lives in.

In the light of all this one understands Rosenberg's politics, though they are not explicitly stated, possibly not even formed. ("The choice between bad politics and no politics," he pithily says, "is a tragic choice — a kind of Hamlet impasse that exists everywhere today.") The chapter on The Heroes of Marxist Science is a brilliant caricature of the Communist as a psychological type, a variation of Rosenberg's revulsion against the regimented person in any shape. The article on the ex-Communists of the "guilty past" is a further sign of Rosenberg's independence of mind.

He boldly states the plight of art in our time. "People don't need works of art any more for entertainment — there are too many commodities more directly designed for that purpose." Art today is a "disturbance and a risk" — which explains its rarity and the precariousness of its existence.

Rosenberg writes with the sensibility of a poet coupled with the labyrinthine logic of a cabalist versed in latter-day science. This makes his prose uneven and occasionally opaque. But there is spiritual sinew in it. If he seems "negative," his negations have a tonic and liberating force.

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The Hero of Nothing

WARRIOR'S REST. By Christiane Rochefort. David McKay, 214 pp. $3.75

Paul Lauter

ON AUGUST 6, 1945, Jean-Renaud Sarti, whose contemporaries thought him sure to dazzle the world, found that Colonel Tibbets had once for all beaten him to it at Hiroshima. Seeing too well in a world dazed by a bomb, Renaud undertakes an alcoholic strike against humanity for the right of oblivion. But the only meaningful action mankind leaves him is total inaction, and his boycott can culminate only in an overdose of barbiturates.

But since this is not *Werther,* the story does not end there; rather, that is where Christiane Rochefort's *Warrior's Rest* commences. For Renaud's luck is to be discovered in time by the book's narrator, Geneviève Le Theil, to be desired by her, to be installed in her bed. Ensconced like one of Beckett's bums in his primordial sanctuary, he campaigns to revenge himself, in degrading her, upon all the demons of bourgeois hypocrisy that torment him. He has no stronger allies than her ennui or curiosity or lust, which rouse formerly prim Geneviève to claim this "dead" man for an object of love—of ideal love, to be sure, of True Romance love-at-first-sight. His gaff is finally too much for her tubercular constitution; desperate and beaten, she is carried off to Assy by her guardian angel doctor to listen in the tenderness of the nurses' voices for her approaching death.

But since this is not *Clarissa Harlowe,* the story does not end there either; for now is Renaud's opportunity to return the favor of salvation. Discovering his treasured isolation pierced by a perverse need for Geneviève, he comes to her bedside to restore her will to live. The second cycle of contention begins in Geneviève's well-meaning attempt, which springs from earlier plans to serve needy children, to reclaim Renaud to society, to "success." Renaud dominates their new habitat by again refusing to *do* anything at all.

But with Geneviève's goal seemingly in sight, Renaud discovers in the fairyland Côte d'Azur his personal Garden, and within it an alter-ego, Rafaele. His chrysalis and alcoholism fall away as he flits with her into a prelapsarian childhood of joy and creativity, all the further beyond Geneviève's comprehension for her own seriously adult presence in it. Discovering that this transformed Renaud is not her Renaud, but Rafaele's, Geneviève sets out to reclaim him. To redeem him from death to life, as she likes to think of it, she must mobilize the very demons she has been trying to exorcise—alcohol, promiscuity, disease.

HER success measures the urban and intellectual worlds' conspiracy against children and Gardens; and besides, as Renaud says, it is "too late for the Golden Age"—for he himself has lost, if it ever was really available to him or to anyone, the total confidence of freedom necessary for remaining an "idealist in a vacuum." By now desperately in need of chains, Renaud finally seizes the opportunity of bowing into matrimony before the classic gambit—pregnancy—which Geneviève steadfastly refuses to use.

But since this is not *Ten Nights in a Barroom,* Miss Rochefort's novel does not end in visions of felicity; rather in ironic qualification of Geneviève's "success," the success of the middle-class world, in domesticating the spirit of life and poetry. For to secure Renaud's surrender to "salvation," to the "cure," in short, to her, Geneviève must with hardly a whimper compromise the long-treasured claims to philanthropy and inner innocence which endear her to us. Worse, in dissolving Renaud's fragmentary visions of glory, all the while consciously attempting to preserve them, she also destroys the very latest—if the shabbiest—Don Quixote.

These ironies are brought home forcefully to us by Miss Rochefort's narrative technique. Most twentieth-century novelists writing about the classic modern subject—the dilemma of the artist or idealist in a bourgeois culture—naturally choose as protagonist, frequently as narrator, the artist himself, or his representative. Thus in the first generation—Joyce, Mann, Proust—the hero was the artist; and in the second—Faulkner, Silone, Greene—the hero becomes what R. W. B. Lewis calls a "Picaresque Saint." But such an approach requires that the hero believe in engagement, and that he create or act on that belief; the novel, by its very existence, symbolically sustains the validity of its subject. For the generation of "seedy solipsists" like Jean-Renaud Sarti—whose name itself is a parody of the Existentialist Commissar's—the existential leap into action is absurd and art shrinks to a page-long "novel" announcing one's resignation from mankind. Thus, since the response of the most sensitive individual—the artist—to his world remains the subject, the role of protagonist and of narrator must be shifted to an observer of those responses. Miss Rochefort brilliantly capitalizes on this necessity by making her narrator a representative bourgeoise whose very lack of understanding dramatizes what the artist is up against, and whose insight at the very last, the insight which produced the book, represents the artist's odd success in impregnating a sterile culture.

A FURTHER advantage of Miss Rochefort's narrative technique is its ability to trap our sympathies. One of the major problems with the artist-as-hero is that as society's spreading uniformity forces him into radical alienation, he has become increasingly repulsive to the audience—compare Tonio Kroger and Humbert Humbert, for example. Though Renaud may have our sympathy, he defies empathy. But we give ourselves to Geneviève, even in her ignorance and especially in her wholesome aspirations. For, in our work and hopes, in our participation in society, we are all Genevièves; and it is her story, not Renaud's, that is really our own.

Lowell Bair's translation, unfortu-

PAUL LAUTER teaches English at the University of Massachusetts.

Here

Here, where we pick up wind in shells,
are lapping laces, waterswells,
moss, foam, hermits' houses
in which they masquerade as snails.

Tentacled anemones
pretending to be flowers in pools,
touched, clutch inward into balls
digesting enemies.

Gulls are gone to gleaming meals—
underneath these indigos
jellyfish with stinging veils
glitter among grotesqueries

of weeds and things that look like weeds;
something quick eats something else,
something fortressed under coral,
hungering, has eyes.

Here are cormorants' sticklike tracks
and shapes of rancor on the rocks,
a reek, as much of death as salt,
ghost wood and wood that rots;

here, through bone and claw, we stroll
where horror crawls in pearl
and flaming rainbows beautify
a cold and wordless world.

HAROLD WITT

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nately, makes Geneviève's story all too bourgeois by rendering Miss Rochefort's vivid ribaldry in technical commonplaces. But if the vitality of its language does not survive Americanization, *Warrior's Rest* still remains in symbolic action and in technique the richest of the fine French novels recently translated. For Miss Rochefort provides us with more than adolescent "experience," more than catalogues of trivia, more than astral whispers hinting the unknowableness of whisper and whisperer. Retaining the advantages of traditional form and technique, yet developing a terribly modern dilemma, Miss Rochefort's book looks forward, not to the dead end of the novel, but to its continued extension as our most vital form of social criticism.

The Law We Feel

LAW AS LARGE AS LIFE. By Charles P. Curtis, Simon & Schuster. 224 pp. $3.50.

Curtis Bok

THIS FINE little book, dedicated to Learned Hand, comprises the three lectures delivered by Mr. Curtis at Boston University in the Caspar G. Bacon Lecture series in 1958.

Its subtitle is: "a natural law for today, and the Supreme Court as its prophet." The author says that the current natural law is both modern and mundane and is what judges must look to when positive law, being the book that binds them, falls short and must be seen beyond for completion of decision. To lighten the difficulty of definition Mr. Curtis suggests Cardozo's basic principles implicit in the concept of ordered liberty; Fuller's fundamental rules that make law possible; Wyzanski's core of values characteristic of our particular civilization; Lippmann's "public philosophy"; Wright's "consensus." He sets out four field-marks by which to recognize the natural-law component in a case: one, generality of expression in the use of such words as fair, just, reasonable, due and equal; another, the layman's feeling that perhaps he can tell his lawyer as much about the law of the case as the lawyer can tell him; third, a lawyer's suspicion that a jury could decide the case better than a judge; last and perhaps best, the ineffectiveness or needlessness of punishment, penalty, or force to control the matter. Natural law resides in the troublesome feeling that you know more law than you know you know, for as Holmes said: "Judges know how to decide a good deal sooner than they know why."

There are some questions that cannot legally be answered except by invoking or denying a divine law, such as: is euthanasia to be regarded simply as murder? What exactly is wrong about contraception? Why may not a woman conceive by artificial insemination?

Such considerations pose the crucial question: how much of the "ought" in natural law should be added to the "is" of positive law?

The most important thing about modern natural law is that it is common knowledge, and it is not absolute. Natural law must be provisional and tentative. Its prime example, with all the field-marks, is *Brown v. The School Board,* the segregation case. This is closely followed by *Louisiana v. Resweber,* the case of Willie Francis, the boy upon whom electricity failed to work the first time and who provided the dilemma typical of natural law, whether the state could try to execute him a second time. Even earlier, the Supreme Court had flung wide the gates of welcome to natural law in *International Shoe Co. v. Washington,* when it held that the question of civil jurisdiction over a non-resident person or corporation depended on "traditional notions of fair play and substantial justice."

Mr. Curtis states that the Court is articulating a modern code of natural law for the state courts based on the Fourteenth Amendment standing alone and undiluted by the First or any other. He asks his readers to choose between this version and that of the Bill of Rights, which Justice Black espouses because he prefers the natural law of the Declaration of Independence. To make a dangerous generalization, the difference is between the absolute freedoms of the Bill of Rights as written and the relative freedom, under the "due process" clause of the Fourteenth Amendment, to interpret the Constitution in the changing light of the times. In standing pre-eminently for free thought and speech under the unrestricted guarantee of the First Amendment

CURTIS BOK is a Justice of the Supreme Court of Pennsylvania, and the author of Star Wormwood, I, Too, Nicodemus *and* Backbone of the Herring *(Alfred A. Knopf).*

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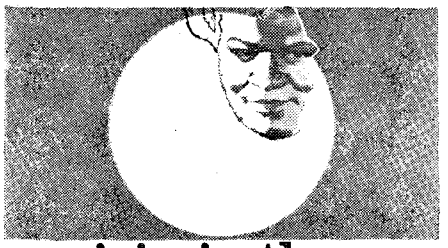

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and for a certain dignified irreverence for the past, Black equates very closely with Jefferson.

The Court operates under the Constitutional provision that its jurisdiction is subject to Congressional regulation, a device that Congress does not choose to use but could do at any time. This leaves the Court free to act as it is now acting, with intellectual judicial independence but as a third legislative chamber subject to correction. The result is a new concept of law: no longer Coke's "knowne certaintie" but the realization that the law doesn't have all the answers.

This sums up the book's argument for the existence of a modern natural law.

I FIND it a provocative way of talking to law students without specially pressing conclusions upon them. The author seems to be on the libertarian side when he says that it is hard to regard the domain of natural law as a government of laws and not of men. The sonorous nonsense that law is somehow superhuman bears setting right whenever it rears its head, and the author's satisfying correction comes as close to a positive conclusion as anything in the book. The other statement that approaches conclusive clarity occurs when he says that very reluctantly he leaves our natural law to take its chances without a national prophet. Presumably Congress should be the prophet and presumably the Court should not act as a third legislative chamber. Mr. Curtis pushes forward Judge Hand to provide the reason, the Judge being willing to "take our chances that such Constitutional restraints as already exist may not sufficiently arrest the recklessness of popular assemblies."

Since one of the restraints is the quality of the judicial mind, the book's most important contribution to me as a judge is its treatment of the "Society of Jobbists," a phrase invented by Holmes to describe the judicial process at its best. No one can improve on either of its Presidents, Holmes and Hand, in the acute articulation of a thought, and I shall not try. Hand speaks disparagingly of "chronic moral exaltation," and Holmes says flatly that the Society "is a club for the abolition of altruism as a requirement of salvation." He adds, in a letter to Wu, that the members "were free to be egotists or altruists on the usual Saturday half-holiday provided they were neither while on the job. Their job is their contribution to the general welfare, and when a man is on that, he will do better the less he thinks either of himself or his neighbors, and the more he puts all his energy into the problem he has to solve." Robin Hood, Mr. Curtis avers, would fail to qualify for membership on both counts.

I doubt my right as a reviewer to intrude my personal opinion unduly, but as I am a judge in constant need of the Bar's reaction to the practice of judgment and in awe of the Bar's shyness in expressing it, I rather wish that Mr. Curtis had plumped a bit more steeply either for the natural law of due process as mankind currently feels it or for the Bill of Rights as the Founders felt them. One moves in a current world, causing eddies merely by the movements of existence, and it is impossible to say that these should go entirely unguarded. The smaller and more mechanized the movements the greater the need for regulation. But one is haunted on the Bench by the need for the great rights of man to be kept lighted and undiluted, and in the cold light of morning, I suspect, history will plump for the Bill of Rights.

I cannot feel it trite to pose quality and to insist upon it, and either process serves the country well if a Court of Jobbists, working under Congress' imminent corrective, applies the Constitution. Lawyers may ask for more meat than students, and it is the danger of an expositional but inconclusive book that its final message will add up to a plea for a virtue instead of for a legal position. But Mr. Curtis wrote for students, and it can be said with some justice that salvation lies not in forming better answers but in asking ever better questions.

THEATRE

Harold Clurman

I SEEM to have developed a conditioned reflex in the theatre: every time I see a Chekhov play — almost from the moment the curtain rises — I sense tears welling up within me.

The fact that a play makes me cry (or laugh) is no sign that it is good. I am not particularly lachrymose, but I have wept at some fairly bad plays, as I have occasionally laughed at pretty cheesy comedies.

So when I say that the latest production of Chekhov's *The Three Sisters* (4th St. Theatre), a play I have seen more often than any other in the modern repertory, made me cry, I do not offer it as proof that it is a great play. It simply means that, apart from its other distinctions, it is a play which embodies

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a quality that I always find very moving: *goodness*.

Several of the people in *The Three Sisters* are fools, one is a silly wretch, another irresponsible, still another a selfish hussy. But it is part of Chekhov's genius to make us feel — without indulging in the deplorable theatrical device called "gaining sympathy for a character" — that all his people, howsoever flawed, are entirely human. Which means, because Chekhov is Chekhov, that they are essentially good.

To be human in the Chekhovian sense is to desire happiness, to crave love, to will kindness, to aspire toward an extension of one's faculties — and to be inadequate in all these respects. In one of his short stories a peasant says "A bird is given not four wings but two because it is able to fly with two; and so man is not permitted to know everything but only a half or a quarter. As much as he needs to know in order to live."

A positive character in Chekhov is one in whom the will to strengthen his "wings" is still vibrant. The Prozoroff sisters are the three purest examples—the archetypes—of this Chekhovian idealism. They want to go to Moscow — another character remarks in passing that if they lived in Moscow they would not "notice" it — but the Moscow they long for is not a city; it is an atmosphere in which they could spread their wings and fly nearer to the high goal which it is the nature of humankind to yearn for. The drama of their failure to make even the first step on the road to this goal is as terrible as, and far more convincing than, anything in the work of our contemporary dramatic pessimists whose theatre imagination is not rooted in common reality but in intellectualized concepts.

What makes Chekhov inspiring in contrast to these other playwrights is that the frustration in his plays — too frequently harped on in popular criticism — is secondary to the fundamental human impulses which make their frustration poignant instead of depressing.

The production of *The Three Sisters* at the 4th St. is decent. The company which plays in it is on the whole intelligent, sensitive and loyal to the Chekhovian vein. If you have never seen the play, you are a retarded theatregoer. To those who have seen it before, I might point out that it is always advisable to revisit a masterpiece.

A PARISIAN critic, quoted in the program of *An Evening with Yves Montand* (Henry Miller Theatre), praises this French night club singer and actor for his "soul." I should have said *health*.

Montand looks strong, sings true, works meticulously. He is virile without ostentation and gives every evidence of being that rare bird, a normal person. He is "proletarian" without crudity, a city fellow without shabbiness, a popular entertainer without cheapness. He is capable of the imagination required for social sympathy, as is witnessed by his song, in flamenco style, addressed to the Spaniard in exile. All this is based on a fundamental attribute: his personal character and professional method express an attitude voiced in one of his songs, *Les Petits Riens Quotidiens* (The Little Daily Nothings) in which he celebrates his love for the inconspicuous pleasures of everyday living: moments of work, a passing smile, a flower, a new necktie, a bright day, a flirtation and anything else you may like. This sentiment represents an essential wisdom — without which nothing can ever be right.

Montand is not "sensational": he is simply sound. He has real gifts as an actor; he is theatrically most effective when he impersonates rather than when he addresses us as himself. His contribution—appreciated all over the world—is that he emerges from the noisome clamor of everything that surrounds us everywhere, not as a freak of glamour or special accomplishment, but as a whole man. In this he satisfies one of our real needs.

ARCHITECTURE

Walter McQuade

THE LAST TIME you picked up a prescription for pills at your friendly corner drugstore, did you notice the container—the capsule that held the capsule that held relief? Probably it was of plastic, of a pleasant, waxy color. The top fitted the neck easily, neatly, with a real craftsman-like intimacy. It snikked closed, without threading. Few common items in our civilization are so well made, such a good match to their contents. Architects wish their buildings could be so competent, fitting serenely without fuss or fancy connections.

The design show currently occupying the main floor of the Museum of Modern Art is an attempt to display this new industrial exquisiteness in packaging, and to make an aesthetic claim for it. To connect with the past, the show begins with some beautiful, elderly containers: a Swiss wheat bag of 1813 which is hung like a heraldic banner, the incidental wood boxes for some Japanese pottery, a reed basket from Brazil which once held melons, and a pre-Columbian reed manioc container, whatever that is. In each case the package presumably was more beautiful than its contents. Anyway, the wrapping wound up at 11 West 53 Street and the merchandise did not. Also shown is a large picture of an egg in its package, the shell, and some peas in their pod.

After this fond backward look at craft and nature, the show moves on to some contemporary containers, which, discarded, will be left to mark us when we are gone, like the pipes and walking sticks in a dead man's study, or—more accurately in this case—like

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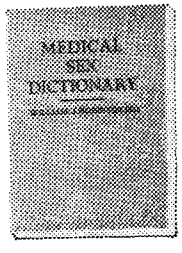

Compiled by William J. Robinson, Ph. G., M. D.

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the empty bottles in his medicine cabinet. The show treats both disposable and re-usable packages, including a very fine pet-carrier for a small traveling animal, made of folded cardboard, and a transparent suit made of vinylfilm for a working man who needs two skins.

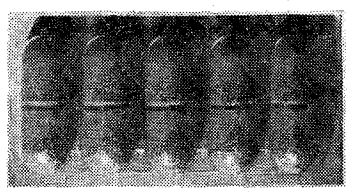
Most of the items shown speak well for us, for most of them are very nice. Some are perfect. But there is something incomplete, even untrue, about this show, although I felt a little unfair toward the museum when I realized what it was.

Conventionally, a museum does not satirize, although it may hang paintings or show films that do. Yet there are some things that it seems incorrect to display cold, however stylishly they are arranged. The subject of packaging can hardly avoid some satire if it wants to be complete. Like other popular arts in our country, some of its biggest work-a-day successes are in reality grave burlesques; some of these might have been displayed to put the subject in perspective.

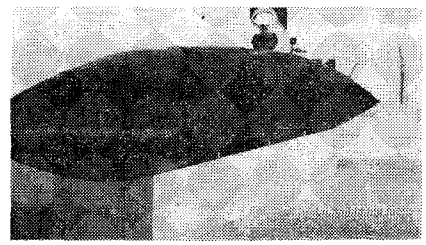
For example, a friend of mine recently was walking along a Manhattan street when something lodged in one of his eyes. He couldn't get it out and at length groped his way tearfully into an eye specialist's on Madison Avenue. The doctor rotated his bright lights, tried to find the irritating particle, failed, but then prescribed a soothant (if this isn't a word, it will be one soon, like lubritorium).

The drug clerk wrapped the package —containing a solution known as artificial tears—in brown paper as my friend wept genuinely over him. The sufferer then paid his dollar, took the package and stumbled out toward his office, stripping the paper off on the way. When he got the paper off there was a cardboard carton, sealed; inside that was a plastic cylinder with a top to fumble off, just the thing to display a single mountain bud in; inside that was a complicated squeeze container, also plastic, which was accompanied by instructions for opening which, this man said, were a little hard to read without perfect sight.

What I am driving at is this: if early in the museum display there should be a picture of some peas in a pod, should there not be, toward the end, some tomatoes or apples in form-fitting plastic containers?



This show has a terribly solemn air, also, because it is a somewhat inhuman show, concerned little with the graphic arts, much with mechanical design. It is the squeeze tube that interests the accumulators of these items, not the label on it. Dominating the floor, for example, is a great black whale of a container, a leather-like bladder fully twenty-four feet long which holds twenty tons of fluid, the biggest wine skin in the world, surely. When out of use it can be rolled up and stored (al-



though there is no container shown to store it in). And then there are many ingenious extrusions, castings, foils, sheet and foamed plastics, expanded papers, canvas, glass and even leathers. But there are only one or two of those ordinary paper cartons, which, decorated and designed to the hilt, still bring us most of the goods we consume. (There is no flip-top cigarette box, a fascinating piece of paper to unfold, incidentally, if you want to take your mind off lung cancer.)

Perhaps it is true that most commercial art is dull these days, and should have been left out. The peaks reached a few years ago by advertising designers and typographers like Paul Rand have become too easily accessible and have been flattened out. Perhaps, also, the leading modern artists—the De Koonings and Motherwells—are too elusive or subjective to be useful as inspiration for advertising adaptation, unlike Chagall, Miro, etc. Maybe we should search more deeply for the subjective in these packages, too—or maybe the mass subjective is something that no longer belongs to museums or even agency art directors, but only to the motivational researchers.

ONE point along this line which the show did not make very clear is that sensuality is not a victim of the plastic revolution in handwares. The crowd at the museum was particularly eager to handle the displays, especially those in the pharmaceutical field: gleaming, perfect little containers, bottles in bright chemical colors, pill boxes and endless ribbons of plastic with pillows of shampoo embedded in them, like amber caught in plastic. A pair of museum guards were kept busy murmuring, "Please do not touch." Not even the lordly leather briefcase from Mark Cross in the same room, quite a sensuous package, it would seem, attracted the forbidden caresses that were lavished on the plastics and foils. These glitter; they are numerous, real, ours — brand new relics hallowed by the museum. Touch them and find relief.

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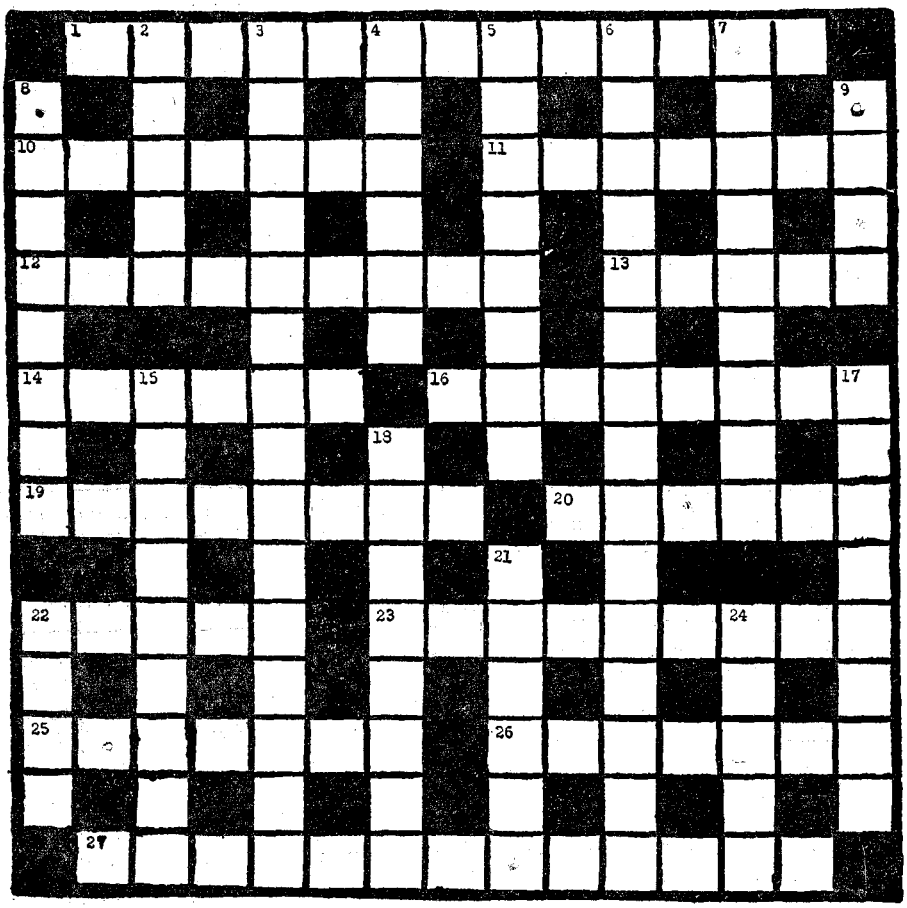
Crossword Puzzle No. 837

By FRANK W. LEWIS



ACROSS:

1 Where to put an association with Greenwich as an interim measure? (2, 3, 8)
10 Turn aside in the inside, via tenuous methods. (7)
11 Farewell Leicester Square style. (7)
12 Cooked and peeled with the swelling inside. (9)
13 The passage of one American is the French equivalent. (5)
14 It's natural to find it dressed like a cardinal around the capital of Bolivia. (6)
16 Castro might be in a state of sin, but not with faithful followers! (8)
19 He or Bing should be rather close! (8)
20 Makes a point solid and liquid, for example. (6)
22 Give me a drink for the general! (5)
23 Frank? Certainly not! (9)
25 Study with borders in red. (7)
26 They might also expect their board to have a reputedly vicious sound. (7)
27 Rent's partly an excuse for how a poor liar acts. (13)

DOWN:

2 Sir Joseph Porter was asked "What ------?" (5)
3 and 9 down Hard hit bounders' boss? (4, 4, 5, 2, 4)
4 How those who are destined to come into the world behave? (6)
5 Giving in 4? (9)
6 One might see him where nursery stock went over in a big way. (3, 3, 2, 3, 4)
7 Where the wild goose hides? (5, 4)
8 One way to bring up someone else's bustle, but the point is badly put. (8)
9 See 3 down
15 Generally found with the first star. (9)
17 In news it is torture, according to Milton. (8)
18 What they do in the bull-pen? (6, 2)
21 He might call your attention to an error. (6)
22 Not real copy. (4)
24 The tide always has the perfect type. (5)

SOLUTION TO PUZZLE NO. 836

ACROSS: 1 Mercantile; 6 Scat; 10 Thicken; 11 Potable; 12 Abnegate; 13 Hindu; 15 Howls; 17 Inspected; 19 Provident; 21 Divan; 24 and 27 Change of fortune; 28 Inroads; 29 Fops; 30 Skindivers. DOWN: 3 Ankle; 4 Tantalize; 5 Lapse; 7 Cabinet; 9, 23 and 2 At the end of the rainbow; 14 and 8 The proof of the pudding; 16 Spiteful; 18 Situation; 20 Outcrop; 22 Violate; 24 and 1 down Checkmate; 25 Gorki; 26 Isis.

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